

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA	)	
	)	
v.	)	CRIMINAL NO. 15-cr-10322-PBS
	)	
SHANE GUNN,	)	
Defendant	)	

**Motion for Amendment of Judgment**  
**And Entry of Order of Restitution**

The United States moves that the Judgment in this case be amended and restitution ordered to the individuals in the amounts set forth in the accompanying Restitution List, being provided under separate cover. As grounds therefore, the government submits that the evidence admitted at the sentencing hearing in this case, taken with the statements of victims heard then and submitted contemporaneously hereto, establishes by a preponderance of the evidence that the listed individuals were victims of the charged crime and are entitled to restitution in the indicated amounts.<sup>1</sup>

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<sup>1</sup> In significant part, the facts on which the Court appropriately should rely in awarding restitution are contained in victim impact statements. The Court is not constrained by the Federal Rules of Evidence in sentencing proceedings. F.R.E. 1101 (d)(3). Further, the Sixth Amendment's Confrontation Clause does not give a defendant the right to cross-examine witnesses at sentencing. *See, e.g., U.S. v. Powell*, 650 F. 3d 388, 393 (4<sup>th</sup> Cir. 2011) (Confrontation Clause does not apply to sentencing proceedings); *U.S. v. Fields*, 483 F. 3d 313, 331-38 (Fifth Cir. 2007) (Confrontation Clause not violated by admission of hearsay at capital sentencing proceeding); *U.S. v. Paull*, 551 F.3d 516, 527 (6<sup>th</sup> Cir. 2009) (Confrontation Clause not violated by admission of hearsay during sentencing proceeding).

The defendant does not oppose the granting of this Motion and the amendment of the Judgment in this case as described herein. (*See* Docket #57).

Respectfully submitted,  
Carmen M. Ortiz  
U.S. Attorney

By: /s/ Stephen P. Heymann  
Stephen P. Heymann  
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

I, Stephen P. Heymann, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) on May 4, 2016. Copies of Exhibit 8 at the Sentencing Hearing, the Restitution List and victim statements received since the sentencing hearing are being provided to the Court and Defense Counsel contemporaneously.

/s/ Stephen P. Heymann  
Stephen P. Heymann